

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No.3976 of 2005

Yashwant Shripat Koli..Petitioner

VS

The State of Mah and ors .respondents

Mr. R.K.Mendadkar for petitioner

Ms Purvi Chhatrapati for respondent no.1

Mrs J S Pawar AGP for State

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ

Dated 13.7.2005

P.C:

Heard advocates.

. The Petitioner joined the Respondent Bank in reserve category as a Clerk. In the 1992, he became qualified for promotion from Clerical cadre to Officer cadre. The case of the Petitioner was referred to the Caste Scrutiny Committee for verification of the caste certificate submitted by the Petitioner. By order dated 19.10.1995 the caste certificate issued to the petitioner was declared invalid by the Scrutiny Committee.

. The Order of the Scrutiny Committee was challenged by the Petitioner in Writ Petition No.531 of 1996. The challenge in the petition was based on the ground that the Scrutiny Committee had

no jurisdiction to investigate into caste certificate of the employees other than employees of Government of Maharashtra. The writ petition was allowed by the Division Bench vide order dated 17.12.2003 upholding the aforesaid grounds on the point of jurisdiction alone. The order of the Division Bench reads as follows:

"P.C.

By this petition the petitioner has challenged the order passed by the Caste Scrutiny Committee on the ground of jurisdiction. In 1995 when the order was passed according to the petitioner the Committee had no jurisdiction to investigate in the certificate of non government employee.

2. This question is squarely covered by our decision in Writ Petition No.1414 of 1995 wherein it has been held that such orders are without jurisdiction. Hence this petition is allowed . Rule made absolute in terms of prayer (b)"

(emphasis supplied)

. It is seen from the above order that the petition was allowed on the point of jurisdiction alone. The genuineness of caste certificate was not considered by the Court. The Scrutiny Committee, however, after a lapse of nearly 8 years granted caste validity certificate to the petitioner on 16.4.2004 solely on the basis of the above order passed by the Division Bench. The caste validity certificated granted by the Scrutiny Committee reads as follows:

"CERTIFICATE OF VALIDITY

Reference; Order passed by the Hon'ble High Court of Judicature at Bombay in Writ Petition No.531 of 1996.

Case no DD/TCSC/NSK/SER/NS-1072/WP-531-96
-2265 dated 16.4.2004

As per the order passed by the Hon'ble High Court of Judicature at Bombay in Writ Petition No.521 of 1996, the Caste Certificate of Shri Yashwant Shripat Koli as belonging to Tokare Koli, Scheduled Tribe bearing No.201/1980 dated 7.3.1981 issued by the Executive Magistrate, Shirpur, Dist Dhule is held valid by the Scrutiny

Committee. This certificate is applicable only to the candidate as per court order" (emphasis supplied)

. It may be mentioned that on 11.6.1998 a resolution was passed by the State of Maharashtra widening the scope and jurisdiction of the Scrutiny Committee. The Scrutiny Committee was required to ascertain the caste claim of the Petitioner in the light of the decision of the Surpeme Court in Madhuri Patil's case and caste validity certificate could have been issued only upon satisfaction of the Scrutiny Committee that the Petitioner belongs to "Tokare Koli" Scheduled Tribe as claimed by him. However, admittedly the caste claim of the Petitioner has not been decided by the Scrutiny Committee and the certificate has been issued solely on the basis of the aforesaid decision of the Division Bench. We therefore direct the Scrutiny Committee to consider the caste claim of the Petitioner afresh in accordance with law and decide whether the Petitioner belongs to Tokare Koli Scheduled Tribe without in any manner influenced by the caste validity certificate granted on 16.4.2004. All contentions on merits are left open to the parties. Petition is accordingly disposed of.